



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0093]

Agency Information Collection Activities; Renewal of an Approved Information

Collection: Commercial Driver's License Drug and Alcohol Clearinghouse

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. The FMCSA requests to renew an ICR titled, “Commercial Driver's License Drug and Alcohol Clearinghouse.” The Agency's final rule, published December 5, 2016, titled “Commercial Driver's License Drug and Alcohol Clearinghouse” (Clearinghouse) established the regulatory requirements for the Clearinghouse. The compliance date of the final rule was January 6, 2020. FMCSA began collecting data as authorized users began registering in the Clearinghouse in September 2019. This ICR renewal is needed to support the continuation of the querying and reporting requirements to address the problem of commercial driver’s license (CDL) and commercial learner’s permit (CLP) holders who test positive for the use of controlled substances or the misuse of alcohol and then continue to perform safety sensitive functions, including driving a commercial motor vehicle (CMV), without completing the required return-to-duty (RTD) process.

DATES: Comments on this notice must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Bryan Price, Chief, Drug and Alcohol Programs Division, DOT, FMCSA, 6th Floor, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; 202-366-2995; bryan.price@dot.gov

SUPPLEMENTARY INFORMATION:

Title: Commercial Driver’s License Drug and Alcohol Clearinghouse

OMB Control Number: 2126-0057.

Type of Request: Renewal of a currently approved information collection.

Respondents: Motor carriers (employers), drivers, medical review officers (MROs), substance abuse professionals (SAPs), consortia/third-party administrators (C/TPAs), and State Driver Licensing Agencies (SDLAs).

Estimated Number of Respondents: 10,439,839. (This number is an update from 10,289,839 respondents stated in the 60-day FR.)

Estimated Time per Response: Varies; 10 to 20 minutes

Expiration Date: February 28, 2023

Frequency of Response: On occasion.

A user’s role will determine the frequency of the response in the Clearinghouse.

- Employers, or C/TPAs acting on behalf of an employer: at a minimum, employers are required to query the Clearinghouse for each driver they currently employ at least once a year. Employers must query the Clearinghouse for all prospective employees, as needed. In addition, employers report to the Clearinghouse alcohol

confirmation tests with a concentration of 0.04 or higher, refusal to test (alcohol), refusal to test (drug) that is not determined by an MRO, and actual knowledge of violations, negative RTD testing, and completion of the follow-up testing plan.

Employer reporting must be completed by the close of the third business day following the date they obtained the information on a driver.

- MROs: verified positive, adulterated, or substituted drug test result and refusals to tests (drug) must be entered to the Clearinghouse on occasion, but no later than 2 business days after making a determination or verification.
- SAPs: must enter the initial assessment date and the date the driver successfully complied with RTD requirements. SAPs are required to enter this information on occasion by the close of business day following the date of the initial assessment or completion of the RTD process.
- SDLAs may query the Clearinghouse prior to specified licensing transactions to determine whether drivers are listed in the “prohibited status.”.
- Drivers provide general consent to employer queries outside of the Clearinghouse.
- Drivers must provide their specific consent to pre-employment queries electronically through the Clearinghouse.

Estimated Total Annual Burden: 1,761,149

BACKGROUND:

Agency regulations at 49 Code of Federal Regulations (CFR) part 382 apply to persons and employers of such persons who operate CMVs in commerce in the United States and who are subject to the CDL requirements in 49 CFR part 383 or the equivalent CDL requirements for Canadian and Mexican drivers operating in the U.S. (49 CFR 382.103(a)). Part 382 requires that employers conduct pre-employment drug testing; random, post-accident, and reasonable suspicion drug and alcohol testing; and RTD

testing and follow-up testing for those drivers who test positive or otherwise violate DOT drug and alcohol program requirements. Motor carrier employers are prohibited from allowing an employee to perform safety-sensitive functions, which include operating a CMV, if the employee tests positive on a DOT drug or alcohol test, refuses to take a required test, or otherwise violates FMCSA's drug and alcohol testing regulations.

Section 32402 of the Moving Ahead for Progress in the 21st Century Act requires that the Secretary of Transportation establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of CMV operators to improve compliance with the DOT's alcohol and controlled substances testing program and to enhance the safety of our roadways by reducing crashes and injuries involving the misuse of alcohol or use of controlled substances by operators of CMVs. As noted above, FMCSA published a final rule on December 5, 2016, with an effective date of January 4, 2017, and a compliance date of January 6, 2020, to implement the requirements of the Clearinghouse. In September 2019 FMCSA first began collecting data in September 2019 relating to authorized users' registration in the Clearinghouse. On January 6, 2020, FMCSA began collecting data related to drivers' drug and alcohol program violations and associated return to duty process, as well as allowing queries conducted by employers on CDL or CLP holders.

The Clearinghouse functions as a repository for records relating to the positive test results and test refusals of CMV operators and violations by such operators of prohibitions set forth in Part 382, Subpart B, of title 49, CFR. An employer utilizes the Clearinghouse to determine whether current and prospective employees have incurred a drug or alcohol program violation that would prohibit them from performing safety-sensitive functions, including operating a CMV.

The Clearinghouse provides FMCSA and employers the necessary tools to identify drivers who are prohibited from operating a CMV and ensure that such drivers

receive the required evaluation and treatment before resuming safety-sensitive functions. Specifically, information maintained in the Clearinghouse will ensure that drivers who commit a drug or alcohol program violation while working for one employer and attempt to find work with another employer, can no longer conceal their drug and alcohol violations merely by moving on to the next job or the next state. Drug and alcohol violation records maintained in the Clearinghouse will follow the driver regardless of how many times he or she changes employers, seeks employment, or applies for a CDL in a different State.

The information in the Clearinghouse is used by FMCSA and its State partners for enforcement purposes:

- Ensure employers are meeting their pre-employment investigation and reporting requirements.
- Place drivers out of service if drivers are found to be operating a CMV without completing the RTD process.
- Ensure MROs and SAPs meet their reporting requirements

Only authorized users, including employers and their service agents, Federal and State enforcement personnel, and SDLAs may register and access the Clearinghouse for designated purposes. State enforcement personnel may also receive the driver's eligibility status to operate a CMV, based on Clearinghouse information, when they check Query Central, the Commercial Driver's License Information System, or The National Law Enforcement Telecommunications System for driver information. FMCSA will share a driver's drug and alcohol violation information with the National Transportation Safety Board when it is investigating a crash involving that driver.

Drivers may access their own information, but not information of other drivers. The Clearinghouse meets all relevant Federal security standards and FMCSA continuously monitors compliance with applicable security regulations.

On November 4, 2022, FMCSA published a Federal Register notice announcing its plan to renew this ICR (87 FR 66769). The Agency received three anonymous comments in response to this ICR renewal but none of the submitted comments are relevant to the subject matter of the ICR.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator,

Office of Research and Registration.